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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,240	01/30/2007	Samuel Guerin	P-8715-US	6954

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EXAMINER	
GAMBETTA, KELLY M	

ART UNIT	PAPER NUMBER
1715	

MAIL DATE	DELIVERY MODE
07/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/575,240	GUERIN ET AL.	
	Examiner	Art Unit	
	KELLY GAMBETTA	1715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 June 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5 and 6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11 June 2010 have been fully considered regarding Barkley et al. but are not persuasive. The applicant argues that Barkley does not teach a continuously varying gradient. It is noted that this wording does not appear in the claims; rather, the claims require a thickness which increases "substantially" continuously. This is broader than continuously varying, and would include step wise increments. Further, Barkley does show continuously varying in Figure 7. The technical aspects of having the source tilted have no bearing on whether or not this feature is disclosed by Barkley. The applicant further argues that Barkley does not teach the mask position as now defined in the claims. However, it is noted the similarity between the Figures in Barkely and the Figures in the instant invention. Barkley further teaches that the position of the mask (or shield) is dependant upon a desired distance between filaments, width of grading and distance of evaporation sources from evaporation (column 5 lines 65-70, for example). Therefore, the placement of the mask is dependant upon process conditions and thus is a result effective variable and may be modified by routine experimentation, as further discussed below.

New grounds of rejection appear below in view of the amendments. The rejection under Abe et al. and the 35 USC 112 rejections are withdrawn in view of the amendments.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barkley (US 2676114).

As to claims 5-6, Barkley teaches a method of simultaneously depositing at least two vapor materials from vapor sources on a single substrate (see Figure 5, reference numbers 51, 52 etc. are the sources, and reference number 45is a single substrate), the path of the vaporized material from each source to the substrate during deposition being partially interrupted by an associated mask (Figure 5, reference number 50), the positioning of the mask in a plane parallel to the plane defined by the substrate such that the material is deposited on the substrate in a thickness which increases substantially continuously in a direction along the substrate (the coating thickness increases across the substrate as shown in Figures 6, 7, and 9, for example). Barkley defines a further plane as described in the claim where it is defined by the center of the source associated with a mask, the substrate and an intersecting edge of the mask so that the mask is positioned that its intersection of the surface of the source with the further plane and the lines in the further plane joining each edge of the source with the opposite edge of the substrate (see Figures 4 and 5, for example – the lines are drawn to illustrate the path of the source vapor and show just this configuration, the source coats the opposite side of the substrate). Barkley also teaches that the mask is movable as broadly as it is claimed, because at some point it may be either attached to or moved out of the vacuum chamber either during assembly or cleaning.

As to the position of the mask designated by coordinates Hy and Hx as defined in the claims, it is noted that Barkley shows the same position in the mask in the Figures as is shown in the instant Figures. It is also noted that Hx and Hy are not defined by

concrete values and therefore may be any number as the planes as shown in the Figures of Barkley certainly have an E, F, A, C and D as defined. Further, Barkley teaches that the position of the mask (or shield) is dependant upon a desired distance between filaments, width of grading and distance of evaporation sources from evaporation (column 5 lines 65-70, for example). Therefore, the placement of the mask is dependant upon process conditions and thus is a result effective variable and may be modified by routine experimentation. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Barkley to include the position of the mask as defined by point Hx and Hy by routine experimentation based upon the desired distance between filaments, width of grading and distance of evaporation sources from evaporation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY GAMBETTA whose telephone number is (571)272-2668. The examiner can normally be reached on Monday - Thursday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kelly M Gambetta
Examiner
Art Unit 1715

kmg

/Timothy H Meeks/
Supervisory Patent Examiner, Art Unit 1715